

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 5003 PCB APC 12-02 Implementing the 2012-2013 General Appropriations Act

SPONSOR(S): Appropriations Committee, Grimsley

TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Appropriations Committee	14 Y, 8 N	Kramer	Leznoff

SUMMARY ANALYSIS

The bill provides the statutory authority necessary to implement and execute the General Appropriations Act (GAA) for Fiscal Year 2012-2013. The statutory changes are effective for only one year and either expire on July 1, 2013 or revert to the language as it existed before the changes made by the bill.

Because this bill implements provisions of the General Appropriations Act for Fiscal Year 2012-2013, there are no direct fiscal impacts created by this bill.

The bill has an effective date of July 1, 2012.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background:

Section 19 of Article III of the Florida Constitution states that appropriations acts “shall contain provisions on no other subject” other than making appropriations. This language has been interpreted to defeat proviso to appropriations that have the effect of amending general law.¹ For this reason, when general law changes are required to effectuate appropriations, those changes are placed in a general bill implementing the appropriations act instead of in the GAA. The statutory changes are effective for only one year and either expire on July 1 of the next fiscal year or revert to the language as it existed before the changes made by the bill.

Provisions of Bill:

Section 1 provides legislative intent that the implementing and administering provisions of this act apply to the General Appropriations Act for Fiscal Year 2012-2013.

Section 2 incorporates Florida Education Finance Program document entitled “Public School Funding- The Florida Education Finance Program” by reference for the purpose of displaying the calculations used by the Legislature.

Section 3 amends s. 1012.885, F.S. to continue the limitation on the salary of a Florida College institution president of \$200,000 from state funds. This limitation was reduced from \$225,000 to \$200,000 during the 2011-2012 fiscal year.

Section 4 amends s. 1012.886, F.S. to continue the limitation on the salary of a Florida College institution employee of \$200,000 from state funds. This limitation was instituted during the 2011-2012 fiscal year. This section does not apply to Florida College System institution teaching faculty.

Section 5 amends s. 1012.975, F.S. to continue the limitation on the salary of a state university president of \$200,000 from state funds. This limitation was instituted during the 2011-2012 fiscal year. This limitation was reduced from \$225,000 to \$200,000 during the 2011-2012 fiscal year.

Section 6 amends s. 1012.976, F.S. to continue the limitation on the salary of a state university administrative employee of \$200,000 from state funds. This limitation was instituted during the 2011-2012 fiscal year and does not apply to university teaching faculty or medical school faculty or staff.

Section 7 amends s. 216.292, F.S. to authorize transfer of unused Fixed Capital Outlay appropriations from the Survey Recommended Needs-Public Schools appropriation category to the Maintenance, Repair, Renovation and Remodeling appropriation category subject to the notice and objection provisions of s. 216.177.

Section 8 provides requirements to govern the completion of Phases 2 and 3 of the Department of Health's Florida Onsite Sewage Nitrogen Strategies Study and prohibits state agencies from implementing regulations with higher standards than those currently in place until Phase 2 and Phase 3 of the department's Florida Onsite Sewage Nitrogen Reduction Strategies Study is completed.

Section 9 adopts by reference the document used to display the calculations used by the Legislature in making appropriations for the Low Income Pool, Disproportionate Share Hospital, and Hospital Exemptions Programs.

Section 10 amends s. 216.262, F.S. to allow the Executive Office of the Governor to request additional positions and appropriations from unallocated general revenue during the 2012-2013 fiscal year for the Department of Corrections if the actual inmate population of the department exceeds the inmate

¹ See, e.g., *Brown v. Firestone*, 382 So.2d 654 (Fla. 1980); *Chiles v. Milligan*, 659 So.2d 1055 (Fla. 1995).

population projections of the December 14, 2011 Criminal Justice Estimating Conference by 1 percent for 2 consecutive months or 2 percent for any month. The additional positions and appropriations must be approved by the Legislative Budget Commission.

Section 11 amends s. 932.7055, F.S. to extend for another year the authorization for a municipality to expend funds in a special law enforcement trust fund to reimburse the general fund of the municipality for moneys advanced from the general fund to the special law enforcement trust fund prior to October 1, 2001.

Section 12 limits Department of Juvenile Justice's reimbursements for health care services to 110 percent of Medicare allowable rates.

Section 13 amends s. 29.008, F.S. to provide that counties are exempt from the requirement to increase expenditures by 1.5 percent for court-related functions.

Section 14 amends s. 282.709, F.S. to provide that funds from the State Agency Law Enforcement Radio System Trust Fund may be used by the Department of Management Services to fund mutual aid build out maintenance and sustainment.

Section 15 amends s. 375.041, F.S. to authorize revenues from the Land Acquisition Trust Fund within the Department of Environmental Protection to be transferred to support the Total Maximum Daily Loads programs, the Drinking Water Revolving Loan Trust Fund and the Wastewater Treatment and Stormwater Management Revolving Trust Fund as provided in the General Appropriations Act.

Section 16 amends s. 373.59, F.S. to provide for the allocation of moneys from the Water Management Lands Trust Fund to pay debt service on bonds issued before February 1, 2009, by the South Water Management District and the St. Johns Water Management District and continues to provide for \$8 million to be transferred to the General Revenue Fund.

Section 17 amends s. 403.1651, F.S. to authorize the use of revenues in the Ecosystem Management and Restoration Trust Fund for funding of activities to preserve and repair the state's beaches.

Section 18 amends s. 403.7095, F.S. to require the Department of Environmental Protection to award \$2,400,000 in grants equally to counties having populations of fewer than 100,000 for waste tire, litter prevention, recycling and education, and general solid waste programs.

Section 19 provides that the Department of Agriculture and Consumer Services, at its discretion, is authorized to extend, revise, and renew current contracts or agreements created or entered into, pursuant to chapter 2006-25, Laws of Florida (the 2006-2007 GAA), in order to provide consistency and continuity in agriculture promotion throughout the state.

Section 20 amends s. 379.204, F.S. to authorize the Fish and Wildlife Conservation Commission (FWCC) to transfer cash balance originating from hunting and finishing license fees in other trust funds into the Federal Grants Trust Fund for the purpose of supporting cash flow.

Section 21 amends s. 379.209, F.S. to authorize the FWCC to transfer cash balances from the Nongame Wildlife Trust Fund to the Grants and Donations Trust Fund for the purpose of supporting cash flow needs.

Section 22 authorizes the FWCC to transfer \$500,000 in hunting and finishing license fees from the Grants and Donations Trust Fund to the State Game Trust Fund to repay the loan original authorized in the 2008-2009 GAA.

Section 23 amends s. 339.135(4)(a)(3), F.S. to require the Department of Transportation to reduce work program levels to balance the finance plan to the revised funding levels resulting from any reduction in the 2012-2013 GAA.

Section 24 amends s. 339.135(5), F.S. to provide that the Department of Transportation shall transfer funds to the Department of Economic Opportunity in an amount equal to \$15,000,000 for the purpose of funding economic development transportation projects. This section provides that the transfer shall not reduce, delete, or defer any existing projects funded, as of July 1, 2011, in the Department of Transportation's 5-year work program.

Section 25 amends s. 339.08(4), F.S. to authorize the transfer of funds from the State Transportation Trust Fund to the General Revenue or the State School Trust Fund as specified in the GAA.

Sections 26 and 27 reenact s. 163.3247, F.S. to carry forward an amendment made during 2010 session which removed the authorization for members of the commission to receive per diem and travel expenses while in the performance of their duties.

Sections 28 and 29 reenact s. 201.15, F.S. to carry forward an amendment made during 2010 session which removed language distributing certain taxes to the Century Commission.

Section 30 amends s. 206.608, F.S. to assist the Department of Transportation in adopting a work program balanced to revenues by giving the department the flexibility to use State Comprehensive Enhanced Transportation System Tax proceeds that are deposited into the State Transportation Trust Fund outside the district in which were collected.

Section 31 provides that notwithstanding s. 320.204, F.S. which requires that annually beginning July 1, 2011, \$5 million dollars must be transferred from the Highway Safety Operating Trust Fund to the Transportation Disadvantaged Trust Fund in the Department of Transportation, such transfer shall not occur during the 2012-2013 fiscal year.

Section 32 amends s. 257.17, F.S. relating to library operating grants to provide that a single library administrative unit that has outsourced its operations shall be awarded their portion of eligible grants authorized by the section if it meets the other requirements of the section.

Section 33 authorizes the Executive Office of the Governor to transfer funds in order to align the budget authority granted to pay each department's risk management insurance.

Section 34 authorizes the Executive Office of the Governor to transfer funds in the appropriation category "Special Categories-Transfer to Department of Management Services-Human Resources Services Purchased Per Statewide Contract" of the 2012-2013 GAA between departments in order to align the budget authority granted with the assessments that must be paid by each agency to the Department of Management Services for human resources management services.

Section 35 amends s. 110.123, F.S. to set rates for health savings accounts for FY 2012-2013 at the current levels.

Section 36 amends s. 112.24, F.S. to provide that the reassignment of an employee of a state agency may be made if recommended by the Governor or Chief Justice, as appropriate, and approved by the chairs of the Senate and House budget committees. Such actions shall be deemed approved if neither chair provides written notice of objection within 14 days after the chair's receiving notice of the action pursuant to s. 216.177, F.S.

Section 37 amends s. 110.1245, F.S. to provide that for fiscal year 2012-2013 only an agency head is authorized to award discretionary, one-time lump sum bonuses payable in June 2013 as follows:

1. Each agency head may award bonuses that do not exceed 10 percent of an employee's salary, including employer taxes, to no more than 15 percent of the agency's authorized positions. Agency heads may not award bonuses to themselves nor award more than one bonus to an individual employee.
2. In order to be eligible for a bonus, an employee must have been employed before July 1, 2012, and have been continuously employed through the date of the award. The employee must not have been on consecutive leave without pay for more than 6 months during the fiscal year and must not

have had a sustained disciplinary action during the period beginning July 1, 2012, through the date a bonus is awarded. When awarding bonuses, agency heads are expected to use discretion, be objective, and give primary consideration for exemplary job performance and the use of critical job skills. In addition, consideration should be given to an employee displaying personal initiative, teamwork, job knowledge, skills, and the ability to improve agency processes.

3. An employee is not eligible for a bonus if his or her DROP termination date occurs before June 30, 2014, or if it is otherwise known that he or she is going to retire or terminate employment before that date.
4. By September 1, 2013, each agency shall provide to the Governor, the President of the Senate, and the Speaker of the House of Representatives a detailed report on the number of, and amount of, individual bonuses awarded, as well as a description of the criteria used to award the bonuses.

Section 38 provides that legislative salaries will remain at the same level in effect on July 1, 2012.

Section 39 and 40 amend s. 215.32(2)(b), F.S., in order to authorize the transfer of moneys to the General Revenue Fund or State School Trust Fund from trust funds in the 2012-2013 General Appropriations Act.

Section 41 provides that, in order to implement the issuance of new debt authorized in the 2012-2013 General Appropriations Act, and pursuant to the requirements of s. 215.98, F.S., the Legislature determines that the authorization and issuance of debt for the 2012-2013 fiscal year should be implemented and is in the best interest of the state and necessary to address a critical state emergency.

Section 42 provides that funds appropriated for travel by state employees shall be limited to travel for activities that are critical to each state agency's mission. This section prohibits funds from being used to travel to foreign countries, other states, conferences, staff-training or other administrative functions unless agency head approves in writing and requires agency heads to consider use of teleconferencing and electronic communication to meet needs of activity before approving travel.

Section 43 provides that the Governor is authorized to transfer funds appropriated between Data Processing Services appropriation categories and the appropriation categories based upon changes to the schedule for consolidation of data center services.

Section 44 provides that the Governor is authorized to transfer funds appropriated in any appropriation category used to pay for data processing in the General Appropriations Act between agencies in order to align the budget authority granted with the utilization rate of each department.

Section 45 provides that the Governor is authorized to transfer funds appropriated in the appropriations category "expenses" between agencies in order to allocate a reduction relating to SUNCOM Services.

Sections 46 and 47 amend s. 110.12315, F.S., to modify prescription drug copayments as part of the state employees' prescription drug program consistent with decisions that have been made in the General Appropriations Act. The rates remain at the same level as in the 2011-2011 fiscal year.

Section 48 specifies that no section shall take effect if the appropriations and proviso to which it relates are vetoed.

Section 49 provides that a permanent change made by another law to any of the same statutes amended by this bill will take precedence over the provision in this bill.

Section 50 provides a severability clause.

Section 51 provides the effective date of the act.

B. SECTION DIRECTORY:

See Effect of Proposed Changes.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal government.

2. Other:

B. RULE-MAKING AUTHORITY:

Not applicable.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES